

UNITED STATE DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

The Satanic Temple, Inc.

Plaintiff

v.

Newsweek Digital LLC

Defendant.

1:22-cv-1343 (MKV)

**DECLARATION OF
MATT KEZHAYA**

COMES NOW Matt Kezhaya, who states as follows under penalty of perjury of the laws of the United States of America.

1. **Purpose.** This declaration is made in support of The Satanic Temple's response to Newsweek's motion for summary judgment in the above cause.

2. **Identity and qualifications.** I am Matt Kezhaya, counsel of record for The Satanic Temple in the above cause. I am an adult of sound mind with no felonies. I base the following statements on my own personal knowledge and under penalty of perjury.

3. **The *Johnson* lawsuit in Washington.** I also serve as counsel of record for The Satanic Temple in *United Federation of Churches, LLC v. Johnson et al.* In addition to asserting defamation and cyberpiracy, the litigation also includes claims for tortious interference, trespass to chattels, conversion, and breach of fiduciary duty. The claims for tortious interference, trespass to chattels, and conversion all survived the Johnson Defendants' Rule 12(b)(6) attack. *United Fed'n of Churches, LLC v. Johnson*, 598 F. Supp. 3d 1084, 1099–101 (W.D. Wash. 2022). The claim for breach of fiduciary duty was brought in the State court and arises from the same facts as the other three claims, but more particularly addresses that any improved value in the stolen social media account is collectible as damages because either

(1) the improved value was not the subject of a good faith mistake; or (2) Defendants were the Temple's agents and the stolen social media accounts were the subject matter of the agency. *See Restatement (Second) of Torts* § 927, cmt. *f, j* (1979); *Straka Trucking, Inc. v. Est. of Peterson*, 98 Wash. App. 209, 211, 989 P.2d 1181, 1183 (1999); *Crawford-Brunt v. Kruskall*, 489 F. Supp. 3d 1, 3 (D. Mass. 2020); *see also Restatement (Second) of Torts* at § 931(a), cmt. *b* and *d*; *Howard v. Edgren*, 62 Wash. 2d 884, 886, 385 P.2d 41, 42 (1963).

4. **Exhibits 18-20 were not received through discovery.** I personally conducted all aspects of discovery in this case, including a comprehensive review of all documents received from Newsweek during discovery. Discovery ended on December 7, 2023. ECF No. 69. Newsweek's motion relies on three documents which I did not receive from Newsweek through discovery. To-wit:

- (1) Stracher Ex. 18 (printed March 22, 2024);
- (2) Stracher Ex. 19 (no print date); and
- (3) Stracher Ex. 20 (printed March 22, 2024).

Further, Newsweek bates stamped its discovery disclosures. The above exhibits lack bates stamps.

5. **"tossatanicacc" is a throwaway account.** I have also reviewed Newsweek's Exhibit 20, a reddit post by "tossatanicacc" purportedly made on February 15, 2020. Stracher Decl. ¶ 22. The post was made by a "throwaway account," which is a temporary account created to anonymously engage on reddit for a particular purpose. Reddit has a search function which reveals that: (1) "tossatanicacc" was created on February 16, 2020—*i.e.*, after Stracher claims the post was made; and (2) the account has only two engagements, the reddit post in question and a response to a comment by "ADavidJohnson," which is David Alan Johnson of

QueerSatanic. A true and correct screenshot of the search results for “tossatanicacc” is attached hereto as **Exhibit 44**.

6. A true and correct copy of Stevens Depo. Exhibit 9, Enid Cooper’s December 11, 2017 complaint, is attached hereto as **Exhibit 45**.

7. A true and correct copy of Stevens Depo. Exhibit 8, the Temple’s January 8, 2018 resolution of Enid Cooper’s complaint, is attached hereto as **Exhibit 46**.

FURTHER AFFIANT SAYETH NOT.

Pursuant to 28 USC § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. *s/Matt Kezhaya*
Executed on May 31, 2024.